

MINUTES
MASSAGE THERAPY BOARD

July 18, 2006 – 9:00 a.m.
Room 475 (Formerly 4B) - Fourth Floor - Heber Wells Bldg.
160 East 300 South, Salt Lake City, Utah

CONVENED: 9:00

ADJOURNED: 2:38

PRESENT:

Clyde Ormond, Bureau Manager
Jacky Adams, Board Secretary

Board Members:

Karen Lessman-Hughes	Craig Sauer
Richard Engar	Ruth Werner

ABSENT:

Jane-Anne Rocha

GUESTS:

Roger Olbrot, AMTA (American Massage Therapy Association); Mark Aiken, UCMT (Utah College of Massage Therapy); Craig Anderson, OGIMT (Ogden Institute of Massage Therapy); Tristen D Thornton; Barry Birch, UCMT; Julie Morbie, Thompson Prometric; Craig Jackson, Division Director.

TOPICS FOR DISCUSSION:

DECISIONS AND RECOMMENDATIONS:

ADMINISTRATIVE BUSINESS:

Swear in New Board Member

The Administration of the Oath of Office to Ms. Rocha was deferred to the next meeting due to her absence.

Approve the Minutes from the
May 16, 2006 Board meeting

Mr. Sauer, seconded by Mr. Engar made a motion to approve the minutes from the May 16, 2006 Board Meeting, with corrections, the motion carried unanimously.

APPOINTMENTS and NEW APPLICATIONS: Received since March 21, 2006

9:45 a.m.- Russell, Jesse

Ms. Russell met with the Board for her scheduled probation interview. She has moved to Alabama for family reasons, and wishes at this time to terminate her probation. Mr. Engar seconded by Ms. Werner made a motion to terminate this probation; Ms. Russell will need to reapply for licensure when she returns to this state, the motion carried unanimously.

10:00 a.m.-Thornton, Tyrell

Mr. Thornton and his wife Ms. Thornton appeared before the Board to review Mr. Thornton's criminal history. He was charged with:

- 1) April 2, 2002, DUI, Guilty
- 2) March 20, 2003, Un-Lawful Possession of Alcohol, Guilty and
- 3) July 15, 2003, Illegal Possession, Dismissed.

Mr. Thornton has successfully completed two in-patient rehabilitation programs. Mr. Engar seconded by Ms. Werner

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made a motion to issue full licensure, based on the progress Mr. Thornton has made since his last charge, motion carried unanimously.

10:15 a.m.-Gomm, Amy

Ms. Gomm met with the Board for her scheduled probation interview. A positive employer report was submitted from her supervisor Harriet McEntire of Align Spa. The Board determined Ms. Gomm is in compliance with her MOU (Memorandum of Understanding). Ms. Gomm will meet again with the Board on September 19, 2006 at 10:15 a.m.

10:30 a.m.-Crandall, Tember

Ms. Crandall appeared before the Board to review her request to change Massage Apprenticeship Supervisors, and to request an extension. She originally was approved for licensure on August 19, 2005; Ms. Jennifer Middleton was her supervisor. Ms. Crandall has completed a total of 435 hours under Ms. Middleton's Supervision:

- 40 Hours Massage Theory
- 150 Hours Hands on Experience
- 150 Hours Client Massage
- 40 Hours Massage Techniques
- 25 Hours Business Preparations
- 15 Hours Ethics
- 15 Hours Safety and Sanitation; and
- 0 Hours Anatomy and Physiology

Ms. Middleton submitted a "Completion of Apprenticeship" form commenting that she did not feel Ms. Crandall wanted to complete the program.

Ms. Crandall is requesting for her new supervisor to be Ms. Brandy Villalta; she has had five individuals apprentice under her: three never finished the program, one completed, and one is currently being supervised.

Ms. Lessman- Hughes asked Ms. Crandall why she wanted to change supervisors; Ms. Crandall's response was to explain that there was a conflict of personality, and a lack of consideration, between herself and the Ms. Middleton. Ms. Werner inquired if Ms. Middleton had met all aspects of their contact to this point; Ms. Crandall stated that she had.

Mr. Engar seconded by Mr. Sauer made a motion to extend this license to May 17, 2007, to change Ms. Crandall's supervisor to Ms. Villalta, and Ms. Crandall must submit an Apprenticeship curriculum within thirty days, motion carried unanimously.

10:45 a.m.-Blosser, Kimberly

Ms. Blosser appeared before the Board to review her Criminal History, Mr. Jones reviewed her application explaining that Ms. Blosser was charged with:

- 1) January 17, 1997, Disturbing the Peace, Guilty;
- 2) March 25, 1997, Simple Assault, Dismissed;
- 3) Pending, Domestic Violence, Court date is August 2006.

Ms. Blosser has been under going counseling for Domestic Violence for the past 6 months. Mr. Engar seconded by Ms. Werner made a motion, based on the number of charges, and the fact that one charge is still pending, to place Ms. Blosser on an MOU for the period of one-year, with the following stipulation:

- 1) Submit proof of final outcome on the pending charge;
- 2) Employer reports; and
- 3) Pending the outcome of the court case this probation may be ended in September 2006.

The motion carried unanimously. Ms. Blosser will again meet with the Board on September 19, 2006 at 10:45 a.m.

11:00 a.m.-Stauffer, Annie

Ms. Stauffer appeared before the Board to review her Criminal History. Mr. Jones explained to the Board that Ms. Stauffer had met with the Board at the last meeting on March 21, 2006. Ms. Stauffer had originally applied for licensure on January 19, 2006, and was scheduled to take the NCBTMB test in April 2006. Mr. Engar had moved to issue licensure contingent upon proof of additional drug screenings from previous employer. Ms. Stauffer submitted proof of passing the NCBTMB exam, and proof of her drug screens. She has been tested seven times since August 19, 2002.

Ms. Stauffer explained that she has moved to Utah and is now attending classes at the University of Utah, she wishes to either become a Registered Nurse or a Surgeon. Based on the outcome of the drug screens Ms. Stauffer submitted from her past employer. Ms. Werner seconded by Mr. Engar made a motion to issue full licensure, the motion carried unanimously.

11:15 a.m.-Lamont, Mark

Mr. Lamont did not appear for his scheduled Probation interview with the Board, he has not met with this Board since March 21, 2006. It was determined he is not in compliance with his MOU, a non-compliance letter will be sent requesting Mr. Lamont to appear at the next Board meeting on September 19, 2006 at 11:30 a.m.

11:30 a.m.-Smith, Karla

Ms. Smith appeared before the Board for her scheduled probation interview. Ms. Lessman-Hughes reminded the Board that Ms. Smith had been placed on probation at the last meeting on May 16, 2006. The MOU requirements were:

- 1) 2-year probation;
- 2) Random Urinalysis drug screens;
- 3) Bi-monthly meetings with the Board;
- 4) Bi-monthly "Employer Reports";
- 5) Remain under direct supervision;
- 6) This is a "Zero Tolerance" probation any errors will be cause to revoke this license;

Ms. Smith signed the MOU on June 3, 2006 and it went into effect on June 9, 2006. The Division was notified on June 15, 2006 that Ms. Smith had missed a Urinalysis, and on June 30, 2006 Ms. Smith had a "dilute" test, which is considered to be a "positive" test. Ms. Lessman-Hughes questioned Ms. Smith on why she missed the test on June 15, 2006 and had a dilute test on June 30, 2006. Ms. Smith explained she did not know that she was suppose to be calling until June 16, 2006, and that the testing center would not allow her to take a test because she owed them money. Ms. Lessman-Hughes told Ms. Smith that this was not the Boards problem, Ms. Smith should have contacted the testing center the day she signed the MOU, and then she would have been ready when the Division approved it. Ms. Smith stated that she had not felt she needed to call until she knew this had taken place. Ms. Werner explained that with all the trouble Ms. Smith has had she should try to be one step in front of the Board and Division, "Everything should be done yesterday".

Ms. Lessman-Hughes then asked Ms. Smith to explain her "dilute" test on June 30, 2006. Ms. Smith explained that she had gone in that morning and "could not go", the nurse at the testing site suggested she may have a "shy bladder" to return after she had drank some fluids. She returned to the testing site that afternoon, due to the amount of fluids, she had a "dilute" test. Ms. Smith then stated she had been assaulted about one-year ago, in Murray, UT. Mr. Jones asked if this had been reported to the Police. Ms. Smith stated "yes" it had, she further explained that she felt she had had the problem she did because the nurse she normally went to was not available that day. Ms. Werner commented that there is always an excuse with Ms. Smith. Ms. Smith then commented, "Even if she had not had a dilute test the only thing that would have come up was some pain killers from a root canal". Ms. Lessman-Hughes asked if she had proof of what the nurse had told her, of the assault, or copies of the prescriptions. Ms. Smith stated she had left the information in her Moms car. Ms. Werner again stated there are always excuses why Ms. Smith cannot meet the requirements of her MOU.

Mr. Engar stated that Ms. Smith has had several chances to comply with the Boards requests. Ms. Werner agreed stating

Ms. Smith is in violation of her MOU. She asked Mr. Jones if the Board could revoke this license today. Mr. Jones explained the Boards options and the processes. The Board determined to recommend an "Order to Show Cause", be issued. The felt that if Ms. Smith wants this license she will need to fight for it.

Ms. Werner seconded by Mr. Engar, to issue an "Order to Show Cause", the motion carried, with Mr. Sauer abstaining.

11:45 a.m.-Miller, Kayla

Ms. Miller did not appear for her scheduled Probation interview with the Board, she has not met with this Board since March 21, 2006. It was determined she is not in compliance with her MOU, a non-compliance letter will be sent requesting Ms. Miller to appear at the next Board meeting on September 19, 2006 at 11:15 a.m.

12:00 p.m.-Bever, Troy

Mr. Bever appeared before the Board to review his application for licensure as a Massage Therapist. Mr. Bever surrendered his licenses as a Health Care Assistant and a Massage Therapist on March 8, 2002, and was not allowed to reapply for licensure for the period of two years. Mr. Bever had been arrested or cited for:

- 1) November 6, 1998, Cohabitant Abuse, which was dismissed;
- 2) February 14, 2001, Doing Business with out a license; and
- 3) March 5, 2003, Disorderly Conduct, which was a guilty plea.

Mr. Engar inquired if all probations and court ordered stipulations have been met and completed. Mr. Bever stated that all fines have been paid, and probations completed. Mr. Bever explained he has been working and going to school in Los Vegas for the past three years. Once he receives his license he plans to work for a Spa and open his own Massage School in St. George, UT. Ms. Lessman-Hughes questioned Mr. Bever on why he felt a new school was needed in this area. He explained that his school would, not only teach Massage but also, Chiropractic.

Mr. Engar seconded by Mr. Sauer, made a motion to issue a one-year probationary license with restrictions:

- 1) Quarterly Employer Reports;
- 2) Meet with the Board on a Quarterly Basis; and
- 3) Remain under direct supervision.

The motion carried unanimously. Mr. Bever will next meet with the Board on November 21, 2006 at 9:15 a.m.

LUNCH

1:30 p.m.-Restructuring of the Utah Law & Rules Exam to include Ethics-
with Thompson Prometric

Ms. Morbie, of Thompson Prometric, appeared before the Board to discuss adding Ethics to the Utah Massage Therapy Laws & Rules exam. She reviewed the content outline for the current exam, and explained that for a thirty-question exam ninety questions would need to be written, and approved. Ms. Lessman-Hughes asked what the process was to obtain this goal. Ms. Morbie stated that the Board in corporation with Thompson Prometric would compile:

- 1) Subject areas
- 2) References
- 3) Subject matter

Thompson Prometric would review the information, write the questions, and insure the context is legally accurate. Then a panel of experts (usually the Board and Education Committee) would review and approve this information. This is a long process it could take six months, to finalize this exam.

Ms. Werner explained that NCBTMB requires two references to substantiate each question; she did not feel this would be difficult to equal. An applicant would be able to take only a copy of the Laws & Rules and the AMTA code of Ethics into the testing center.

Ms. Morbie then explained that this is an open book exam and all applicants can take a Highlighted copy of the Laws & Rules into the testing center, but no notes may be attached or added.

Mr. Sauer seconded by Ms. Werner made a motion to rewrite the Utah Massage Therapy Law & Rules Exam with the percentages to be determined at a later date, the motion carried unanimously.

2:00 p.m.-Review of the Utah Theory Exam in
Comparison to NCETM & NCETMB

Mr. Sauer explained that the Massage Theory exam used to be a very tough exam, but since it has not been rewritten in several years the NCETMB and NCETM are far superior exams at this point. He felt the Massage Apprentices should be being held to the same standards as those who have graduated from schools. Massage Apprentices are not eligible to sit for the NCETMB or NCETM because the anatomy, physiology, and pathology, are self-taught.

Ms. Werner stated that the main reference was written in 1994, and is out of date. Ms. Morbie stated she would check to determine when this exam was due to be rewritten by

Thompson Prometric and get back to the Board. Ms. Lessman-Hughes commented she hoped to be able to open this exam for all Utah Students, which would give them an option of three different tests. The FSMTB (Federation of State Massage Therapy Boards) is proposing to write an equivalent exam, to the NCETMB. Or the Board could just wait a little longer and see what the FSMTB does.

It was determined that Mr. Ormond would try to attend the FSMTB conference. After the conference this issue would be revisited.

DISCUSSION ITEMS:

Iorg, Michael-Release from Probation

At the last Board Meeting on May 16, 2006. The Board requested for Mr. Iorg to submit a letter, explaining what he had learned from his experience, as a probationer with this Board. The Division received the letter, June 13, 2006. Ms. Hughes read the letter for the Board. Mr. Sauer seconded by Ms Werner made a motion to release Mr. Iorg from probation, the motion carried unanimously.

Uken, Amon-Review Quarterly Report

Mr. Uken submitted a positive "Employer Report", from his supervisor Scott T Cowdrey, of Tranquility Spa. It was determined he is in compliance with his MOU. Mr. Uken will be scheduled to meet with the Board on November 21, 2006 at 9:30 a.m.

Standards for Massage Therapy Instructors-

The Boards is concerned that Massage Apprentices are not getting the education they should be given. They wanted to review this issue in depth. Mr. Sauer explained for example, that he knew of a Chiropractor who had a minor "Possession" charge, who surrendered his licensed, to DOPL (Division of Occupational and Professional Licensing), instead of being placed on probation. This Chiropractor has now opened a Massage School, and because there are no regulations to govern Instructors, there may not be much the Board or Division can do to protect the public. Mr. Sauer stated normally the school would determine if the individual would make a good instructor, but since this person owns the school, there is no one to stop him. Mr. Engar asked if a school could hold National accreditation without the school or instructors being reviewed. Ms. Werner stated that there are several accreditation bodies, but they are more concerned with curriculum than instructors. And even if a Background check was run, this would not show, because no criminal charges were filed. Mr. Jones stated this was true. Mr. Sauer then commented that once a school is accredited, there is no oversight, by the accreditation body.

Mr. Sauer commented he would like to see good moral character clause for instructors added to the statute. Mr.

Jones explained that this would require opening up the statute. This would enable the Board and Division to over see the School and Instructors more. Mr. Jones also reminded the Board that they are an advisory Board, by doing this it would put the Board in an enforcement position. Mr. Jackson inquired what the statute requires for accreditation: R156-47b-302a states that Curricula must be registered with the Utah Department of Commerce, Division of Consumer Protection or an accrediting agency recognized by the United States Department of Education. He then explained that Legislature switched the responsibility of the schools to protect students from fraud. Mr. Anderson explained that a school must have been in business for at least two-years before they can apply to become accredited.

Ms. Werner commented that if the statute is opened to make these changes, Massage Apprenticeship Supervisors should be reviewed as well. Ms. Hughes asked if having a separate application was possible for Massage Apprenticeship Supervisors. Mr. Jackson explained that this would be possible if the statute was opened. Ms. Adams explained that the Division staff usually review supervisors, and only the questionable applications are sent to the Board. Ms. Werner commented she would like to see all contracts just to know that they exist. Mr. Jones advised the Board might not want to get into "Contract Enforcement". He then advised the Board that other professions have established instructor licenses. Mr. Anderson stated that a lot of supervisors just use the apprentices as "Slave Labor", the Board agreed.

Ms. Winager explained that Consumer Protections duties include, insuring that all schools are properly registered, and the appropriate Board approves curriculums, until the School submits proof of Nationally Accreditation.

The Board then recommended changing the application: Documents to be submitted with each Apprentice application:

- 1) Submit curriculum, Course Outline and Syllabus.
- 2) List of all Reference and resource materials
- 3) Copy of record keeping format.

Items to be added to the application:

- 1) A statement confirming that a contract exists – both supervisor and apprentice must sign
- 2) Question the Supervisor if any arrests or convictions within the past five years.
- 3) Quote R156-1-302 "Good Moral Character", which the apprentice must sign

Mr. Jones explained to the Board that at the Proposed Rules Hearing, there were no comments either for or against this change. The Rules change will take effect around July 25, 2006.

COMTA-Call for Comment

The Board reviewed this item with no further action taken.

CORRESPONDENCE:
COMTA Alert – Spring Meeting

The Board reviewed this item with no further action taken.

Utah Theory, Law and Rule
Exam Pass Rates

The Board reviewed this item with no further action taken.

NEXT SCHEDULED MEETING:
September 19, 2006

DATE APPROVED

CHAIRPERSON, UTAH BOARD
OF MASSAGE THERAPY

DATE APPROVED

BUREAU MANAGER, DIVISION OF
OCCUPATIONAL & PROFESSIONAL
LICENSING